

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

JOHN HILL,

\*

Plaintiff

\*

v.

\*

Civil Action No.: 13-cv-00524-RWT

WILMINGTON FINANCE, INC. et al.,

\*

Defendants

\*

\* \* \* \* \*

OPPOSITION OF DEFENDANTS  
WILMINGTON FINANCE AND NATIONSTAR MORTGAGE  
TO PLAINTIFF'S "MOTION CRAVING OYER"

Defendants Wilmington Finance, Inc. ("Wilmington") and Nationstar Mortgage, LLC ("Nationstar"), by their attorneys, hereby oppose the "Motion Craving Oyer" (the "Motion")<sup>1</sup> filed by Plaintiff, John Hill, and state as follows:

1. Plaintiff John Hill ("Plaintiff"), filed suit against Wilmington, Nationstar and eight other defendants in the Circuit Court for Charles County (Maryland), on or about January 14, 2013, and the case was removed to this Court on February 15, 2013. (Docs. 1-2)

2. Several defendants, including Wilmington, Nationstar, Wells Fargo, Countrywide, and CWABS, have moved to dismiss the Complaint. (Docs. 7, 11, 16)

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<sup>1</sup> Neither the Federal Rules of Civil Procedure nor the Local Rules of this Court provide for a "Motion Craving Oyer." The Motion appears to be a motion to compel discovery, and Wilmington and Nationstar respectfully request that the Court treat it as such.

Those motions are currently pending before the Court, and no scheduling order has yet been issued.

3. On July 8, 2013, Plaintiff filed a “Motion Craving Oyer,” asking the Court to “compel the Complainant [sic] to produce proof of its case[.]” (Doc. 22)<sup>2</sup>

4. Plaintiff specifically requests that the Court compel the production of various documents and information related to his mortgage loan, which he claims are relevant to his Quiet Title Complaint. (Doc. 22 ¶¶ 2(A)-(C))

5. Plaintiff’s request is premature. Pursuant to Local Rule 104.4, discovery may not commence until a scheduling order is issued. Further, Plaintiff has not served Wilmington or Nationstar with discovery requests, and a motion to compel discovery is only appropriate after a party has failed to respond to such requests. See Fed. R. Civ. P. 37(a)(3)(B).

WHEREFORE, for the reasons stated herein, Wilmington and Nationstar respectfully request that the Court enter an order denying Plaintiff’s Motion and granting such other and further relief as may be appropriate.

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<sup>2</sup> Throughout the Motion, Plaintiff refers to himself as a “Respondent” and to the defendants in this case collectively as “Complainant.” In fact, Plaintiff himself is the complainant in this matter, having filed the initial Complaint in state court. It is axiomatic that the plaintiff in a civil action bears the ultimate burden of proving his case.

Respectfully submitted,

/s/ Robert A. Scott

Robert A. Scott (Fed. ID No. 24613)

Glenn A. Cline (Fed. ID No. 26672)

BALLARD SPAHR LLP

300 E. Lombard Street, 18<sup>th</sup> Floor

Baltimore, Maryland 21202

Telephone: 410-528-5600

*Attorneys for Defendants Nationstar Mortgage  
and Wilmington Finance*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 25<sup>th</sup> day of July, 2013, copies of the foregoing Opposition were filed via ECF and mailed by first class mail, postage prepaid to:

John Hill  
23564 Gunnel Drive  
Leonardtown, Maryland 20650

Edward Win-Teh Chang  
Blank Rome LLP  
One Logan Square  
130 North 18<sup>th</sup> Street  
Philadelphia, PA 19103

James Robert Billings Kang  
Blank Rome LLP  
Watergate 600 New Hampshire Avenue, NW  
Washington, D.C. 20037

The Bank of New York Mellon  
1 Wall Street, Manhattan  
New York, New York 10005

International Mortgage Co.  
450 N. Brand Boulevard, Ste. 150  
Glendale, California 91203

Matthew D. Cohen  
BWW Law Group, LLC  
4520 East-West Highway, Suite 200  
Bethesda, MD 20814

Premium Capital Funding LLC  
125 Jericho Turnpike, Ste. 400  
Jericho New York 11753

CIT Group/Consumer Finance, Inc.  
8000 Sagemore Drive, Ste. 8202  
Marlton, New Jersey 08053

/s/ Robert A. Scott  
Robert A. Scott